

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

RICKY OVIEDO, AND JERRY LUCARIO §  
On Behalf of Themselves and All Others §  
Similarly Situated §

v. §

C.A. NO. 4:11-CV-04379

GLOBAL INFORMATION SYSTEMS, §  
LLC, and FREDERICK WILLIAM §  
SPICKLER §

DEFENDANTS GLOBAL INFORMATION SYSTEMS, LLC'S  
AND FREDERICK WILLIAM SPICKLER'S ORIGINAL ANSWER

Global Information Systems, LLC's , ("Defendant GIS") and Frederick Spickler ("Defendant Spickler"), (collectively "Defendants") files this original answer to Plaintiffs', Ricky Oviedo and Jerry Lucario, On Behalf of Themselves and All Others Similarly Situated (collectively "Plaintiffs"), Original Complaint.

ADMISSIONS AND DENIALS

1. While Plaintiffs characterize Paragraph Number 1 as a summary, Defendants nevertheless deny the allegations made in Paragraph Number 1.

2. While Plaintiffs characterize Paragraph Number 2 as a summary, Defendants nevertheless deny the allegations made in Paragraph Number 2.

3. Paragraph Number 3 is a summary of the nature of Plaintiffs claims and does require a denial by Defendants. To the extent necessary, Defendants deny the allegations contained in Paragraph Number 3.

4. Defendants admit Paragraph Number 4.

5. Defendants admit Paragraph Number 5.

6. Defendants admit Paragraph Number 6.

7. Defendants admit that Plaintiffs worked out of the Houston office. Defendants deny that any violations of the FLSA occurred at the Houston office.

8. Defendants lack sufficient knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 8.

9. Defendants lack sufficient knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 9.

10. Defendants deny the allegations contained in Paragraph Number 10.

11. Defendants deny the Plaintiffs' claims in Paragraph Number 11.

12. Defendants deny the Plaintiffs' claims in Paragraph Number 12.

13. Defendants admit the allegations contained in Paragraph Number 13.

14. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 14.

15. Defendants admit Paragraph Number 15.

16. Defendants admit Paragraph Number 16.

17. Defendants admit Paragraph Number 17.

18. Defendants admit Paragraph Number 18.

19. Defendants admit Paragraph Number 19.

20. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 20.

21. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 21.

22. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 22.

23. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 23.

24. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 24.

25. Paragraph Number 25 is Plaintiffs' characterization of the law and does not contain any specific allegations. Nevertheless, Defendants admit Plaintiffs' characterizations of the law in Paragraph Number 25.

26. Paragraph Number 26 is Plaintiffs' characterization of the law and does not contain any specific allegations. Nevertheless, Defendants admit Plaintiffs' characterizations of the law in Paragraph Number 26.

27. Defendants admit the allegations contained in Paragraph Number 27.

28. Defendants admit the allegations contained in Paragraph Number 28.

29. Defendants admit the allegations contained in Paragraph Number 29.

30. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 30.

31. Defendants admit the allegations contained in Paragraph Number 31.

32. Defendants admit the allegations contained in Paragraph Number 32.

33. Defendants admit the allegations contained in Paragraph Number 33.

34. Defendants admit the allegations contained in Paragraph Number 34.

35. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 35.

36. Defendants admit the allegations contained in Paragraph Number 36.

37. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 37.

38. Defendants deny the allegations contained in Paragraph Number 38.

39. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 39.

40. Paragraph Number 40 is Plaintiffs' characterization of the law and does not contain any specific allegations. Nevertheless, Defendants admit Plaintiffs' characterizations of the law in Paragraph Number 40.

41. Defendants deny the allegations contained in Paragraph Number 41.

42. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 42.

43. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 43.

44. Defendants deny the allegations contained in Paragraph Number 44.

45. Defendants deny the allegations contained in Paragraph Number 45.

46. Defendants admit that Plaintiff Oviedo was paid gross pay of \$2,242.50. Defendants deny the other allegations contained in Paragraph Number 46.

47. Defendants deny the allegations contained in Paragraph Number 47.

48. Defendants deny the allegations contained in Paragraph Number 48.

49. Defendants deny the allegations contained in Paragraph Number 49.

50. Defendants deny the allegations contained in Paragraph Number 50.

51. Paragraph Number 51 does not contain any allegations. To the extent necessary, Defendants deny any allegations in Paragraph Number 51.

52. Defendants deny the allegations contained in Paragraph Number 52.

53. Defendants deny the allegations contained in Paragraph Number 53.

54. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 54.

55. Defendants deny the allegations contained in Paragraph Number 55.

56. Defendants deny the allegations contained in Paragraph Number 56.

57. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 57.

58. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 58.

59. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 59.

60. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 60.

61. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 61.

62. Defendants deny the allegations contained in Paragraph Number 62.

63. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 63.

64. Defendants deny the allegations contained in Paragraph Number 64.

65. Defendants deny the allegations contained in Paragraph Number 65.

66. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph Number 66.

67. Defendants deny the allegations contained in Paragraph Number 67.

68. Defendants deny the allegations contained in Paragraph Number 68.

69. Defendants deny the allegations contained in Paragraph Number 69.

70. Defendants deny the allegations contained in Paragraph Number 70.

71. Paragraph Number 71 does not contain any allegations.

72. Paragraph Number 72 does not contain any allegations. To the extent necessary, Defendants deny any allegations contained in Paragraph Number 72.

AFFIRMATIVE DEFENSES

1. Subject to and without waiving any prior objection, answers or defenses and without altering the burden of proof on the matter, Defendants assert that Defendants are not an “employer” for purposes of the Fair Labor Standards Act, including but not limited to 29 U.S.C. 203(d).

2. Subject to and without waiving any prior objection, answers or defenses and without altering the burden of proof on the matter, Defendants assert that, to the extent Plaintiffs, or any of the Opt-In Plaintiffs, are asserting a claims under the Fair Labor Standards Act for compensation outside the applicable statute of limitations, said claims are barred.

3. Subject to and without waiving any prior objection, answers or defenses and without altering the burden of proof on the matter, Defendants assert that Plaintiffs, and any Opt-In Plaintiffs who were employees of Defendants, were exempt employees under the Fair Labor Standards Act during the relevant period; and, therefore, were not legally entitled to overtime compensation as requested in Plaintiffs’ Original Complaint.

4. Subject to and without waiving any prior objection, answers, or defenses, and without altering the burden of proof on the matter, Defendants assert that they are not liable to Plaintiffs, or any of the Opt-In Plaintiffs, for any period in which Defendants were not their employer under applicable law.

5. Subject to and without waiving any prior objection, answers or defenses, and without altering the burden of proof on the matter, Defendants assert that they acted in good faith and with

reasonable belief with respect to the exempt status of Plaintiffs, or any of the Opt-In Plaintiffs employed by Defendants, and with respect to Defendants' pay practices.

6. Subject to and without waiving any prior objection, answers or defenses, and without altering the burden of proof on the matter, Defendants state that their conduct with respect to Plaintiffs' compensation, or that of any Opt-In Plaintiffs employed by Defendants, was not willful or reckless.

7. Subject to and without waiving any prior objection, answers, or defenses, and without altering the burden of proof on the matter, Defendants asserts that all monies due and owing by Defendants to Plaintiffs, or any Opt-In Plaintiffs employed by Defendants, have been paid in full.

8. Subject to and without waiving any prior objection, answers or defenses, and without altering the burden of proof on the matter, Defendants assert that Plaintiffs, and the Opt-In Plaintiffs, are not similarly situated under applicable federal law.

9. Subject to and without waiving any prior objection, answers or defenses and without altering the burden of proof on the matter, Defendants assert that Plaintiffs, and other proposed class members, are not entitled to any recovery because any alleged acts or omissions were made by Defendants in good faith in conformity with and reliance on applicable administrative regulations, orders, rulings, approvals or interpretations, or administrative practice or enforcement policies with respect to the class of employers or persons to which Defendants belong.

10. Subject to and without waiving any prior objection, answers or defenses and without altering the burden of proof on the matter, Defendants assert that pursuant to 29 U.S.C. § 255(a), any claims against Defendants are subject to the two-year statute of limitations.

PRAYER

For these reasons, Defendants asks the court to enter judgment that plaintiffs take nothing, dismiss plaintiffs' suit with prejudice, assess costs against plaintiffs, and award Defendants all other relief the court deems appropriate.

Respectfully submitted,

By: /s/ Jeremy D. Saenz

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**ATTORNEYS FOR DEFENDANTS  
GLOBAL INFORMATION SYSTEMS, LLC AND  
FREDERICK WILLIAM SPICKLER**



**CERTIFICATE OF SERVICE**

I hereby certify that on February 16, 2012, a true and correct copy of *Defendants Global Information Systems, LLC's and Frederick William Spickler's Original Answer* was served/electronically filed in accordance with the FEDERAL RULES OF CIVIL PROCEDURE to the following:

Galvin B. Kennedy  
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/s/ *Jeremy D. Saenz*

Jeremy D. Saenz